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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/814,993

03/31/2004

Danilo Lambino

J&J5118

1398

27777

7590

10/06/2005

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EXAMINER

BOYER, CHARLES I

ART UNIT

PAPER NUMBER

1751

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/814,993

Applicant(s)

LAMBINO ET AL

Examiner

Charles I. Boyer

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 12, 14-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Slavtcheff et al, US 6,270,783.

Slavtcheff et al teach skin treatment compositions impregnated on a substrate (see abstract). An example of such a composition is a nonwoven fabric containing a resin dispersed in water along with microencapsulated cholesteryl ester carbonate (col. 8, example 1). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

3. Claims 1-5, 8, 10, 12, 14-16, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Charle et al, GB 1,304,375.

Charle et al teach make-up removing towels comprising a microencapsulated cream wherein the microcapsule is an acrylic acid polymer at a size as high as 100 microns. The microcapsules are incorporated into cellulose acetobutyrate, which is dried, and then placed in absorbent paper napkins (col. 5, example 2). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

4. Claims 1-10, 14-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Norbury et al, US 4,878,775.

Norbury et al teach a device for applying liquid to a surface (see abstract). An example of such a device comprises a water-borne adhesive applied to a non-woven polyester fiber web, and further contains urea formaldehyde capsules having a size between 600 and 1000 microns and containing a fragrance oil (col. 5, example 1). Note that the capsules may have a diameter as small as 200 microns (col. 3, lines 16-32). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lang et al, US 6,429,261.

Lang et al teach fabrics impregnated with personal care compositions (see abstract). An example of such a composition is a wet wipe wherein a wetting composition is applied to the wipe (col. 39, lines 36-50). Said wetting composition may contain microcapsules as a delivery vehicle for skin care benefit agents such as retinol,

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retinyl palmitate, tocopherol, silicones, and mineral oil (col. 29, lines 5-19). Lang et al do not specifically teach a wipe containing microcapsules, however as Lang et al clearly teach microcapsules as a preferred delivery method for skin care agents in their wet wipe compositions, it would have been obvious to one of ordinary skill in the art to incorporate microcapsules in a wipe according to the teachings of Lang et al. With respect to specific compositions and properties of the microcapsules, the examiner notes that the microcapsules of the reference are commercially available and are believed to encompass these limitations.

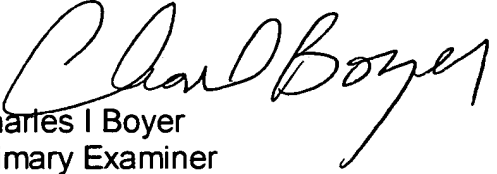
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles I. Boyer whose telephone number is 571 272 1311. The examiner can normally be reached on M-F 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571 272 1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Charles I Boyer  
Primary Examiner  
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